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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**

10 DAVID JOHN BERG,

11 Plaintiff,

12 v.

13 JOHN DOES; DEPUTY KAZALEC;
14 DEPUTY ISLAS; DEPUTY YOUNGBERG;
15 DEPUTY TUCKER; DEPUTY KENDRICK;
16 DEPUTY CATOR; DEPUTY MROZINSKI;
DEPUTY TODD; DEPUTY ROSALES,

17 Defendants.
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No. 2:09-CV-01492 MCE KJN

**SECOND STIPULATION FOR
CONTINUANCE OF HEARING;
[PROPOSED] ORDER**

~~Date: December 8, 2011~~

Date: February 23, 2012

Time: 10:00 A.M.

Courtroom: 25, 8th Floor

Judge: The Hon. Kendall J. Newman

20 WHEREAS the hearing on the motion to dismiss and to sever the First Amended
21 Complaint (hereinafter referred to as "Motion to Dismiss/Sever"), brought by defendants
22 DEPUTY TODD, DEPUTY TUCKER, DEPUTY YOUNGBERG, DEPUTY ROSALES,
23 DEPUTY CATER, DEPUTY MROZINSKI and DEPUTY KACALEK, is currently set for
24 December 8, 2011;

25 WHEREAS the Motion to Dismiss/Sever was originally set for November 10, 2011;

26 WHEREAS the parties Stipulated to continue the Motion to Dismiss/Sever in order to
27 continue settlement negotiations;

28 WHEREAS the Stipulation subsequently became an Order entered by this Court on

STIPULATION FOR CONTINUANCE; [PROPOSED]

ORDER

Case No. 2:09-cv-01492 MCE KJN

1 October 28, 2011;

2 WHEREAS PLAINTIFF DAVID JOHN BERG was recently transferred to a new facility
3 on or about October 27, 2011, thereby interrupting his ability to communicate with his counsel of
4 record and, in turn, participate in settlement negotiations;

5 WHEREAS a result of PLAINTIFF's relocation, the parties settlement negotiations were
6 put on hold;

7 WHEREAS PLAINTIFF is now able to communicate with his counsel and the parties
8 continue to engage in settlement negotiations that may fully resolve this case in the next few
9 weeks; and

10 WHEREAS the parties seek to reduce litigation costs and the expenditure of Court
11 resources by abating all motions practice that would be mooted by settlement;

12 THEREFORE, the parties now hereby stipulate through their counsel of record, as
13 follows:

14 1. Subject to Court approval, the parties agree to continue the hearing date on the
15 currently pending Motion to Dismiss/Sever from December 8, 2011, to February 23, 2012, at
16 10:00 a.m.;

17 2. The deadlines for Plaintiff's opposition and Defendant's reply for the Motion to
18 Dismiss/Sever will be based off the new hearing date of February 23, 2012;

19 3. The parties further agree that the newly named defendant, SACRAMENTO
20 COUNTY SHERIFF'S DEPARTMENT, shall have until January 26, 2012, to file its initial
21 responsive pleading or motion, which is presently due on November 29, 2011.

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STIPULATION FOR CONTINUANCE; [PROPOSED]

ORDER

Case No. 2:09-cv-01492 MCE KJN

1 IT IS SO STIPULATED.

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3 DATE: November 22, 2011

DOWNEY BRAND LLP

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5 _____/s/ Julianne R. Kay

6 Frank E. Noey
7 Julianne R. Kay
Attorneys for Plaintiff

8 DATE: November 22, 2011

RANDOLPH CREGGER & CHALFANT LLP

9
10 _____/s/ Robert L. Chalfant

11 Robert L. Chalfant
12 Wendy Motooka
Attorneys for Defendants

13 **[PROPOSED] ORDER**

14 After considering the Stipulation by and between the parties through their counsel of
15 record, **IT IS HEREBY ORDERED THAT:**

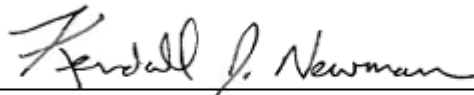
16 1. The hearing on defendants' pending Motion to Dismiss/Sever, previously set for
17 December 8, 2011, shall be continued to **February 23, 2012, at 10:00 a.m.;**

18 2. The deadlines for Plaintiff's opposition and Defendant's reply for the Motion to
19 Dismiss/Sever shall be based off the new hearing date of February 23, 2012; and

20 3. Defendant Sacramento County Sheriff's Department shall have an extension of
21 time to file its initial responsive pleading or motion in this action. The County's responsive
22 pleading or motion is now due on January 26, 2012.

23 **IT IS SO ORDERED.**

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25 DATED: November 30, 2011

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27 **KENDALL J. NEWMAN**
28 **UNITED STATES MAGISTRATE JUDGE**